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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

D’S GONE BATTY, INC., a California
 corporation; DAMARA ARSANIS, an
 individual; and DAX ARSANIS, an
 individual;

Plaintiffs,

v.

SPIRIT HALLOWEEN SUPERSTORES,
 LLC, a Delaware limited liability company;

Defendants.

Case No.

COMPLAINT

DEMAND FOR JURY TRIAL

Plaintiffs D’s Gone Batty, Inc., Damara Arsanis, and Dax Arsanis (collectively, “Arsanis”) by their attorneys, for their complaint against Defendant Spirit Halloween Superstores LLC (“Spirit”) allege and aver as follows:

BACKGROUND

1. This is an action by a former operator of a Spirit Halloween business against Spirit for violation of the California Franchise Relations Act. In brief, Defendant entered into consignment agreements with Arsanis, pursuant to which Arsanis leased and outfitted spaces for seasonal Spirit

1 Halloween retail businesses, invested substantial amounts of money into operating the businesses,
2 and created goodwill for the Spirit Halloween name in their territories, over a period of more than
3 two decades. Although Defendant purported to structure the parties' relationship as a
4 "consignment" relationship," in fact it was a franchise relationship.

5 2. Despite Arsanis being a strong performer within the Spirit Halloween system, Spirit
6 unilaterally terminated the parties' agreement. Spirit was clear that it was terminating the
7 relationship in order to take back Arsanis's markets for itself or other operators, because this would
8 be more profitable for Spirit. Spirit's termination of Arsanis was conducted in violation of
9 California franchise law, which requires prior notice, good cause for termination and an opportunity
10 to cure, none of which were provided to Arsanis.

11 **JURISDICTION AND VENUE**

12 3. This Court has jurisdiction of this matter pursuant to 28 U.S.C. § 1332 because the
13 parties are of diverse citizenship and the amount in controversy exceeds \$75,000 exclusive of
14 interest and costs.

15 4. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because a substantial
16 number of the acts and transactions giving rise to the claims herein occurred within this district.

17 5. This Court has personal jurisdiction over Spirit by reason of Spirit's transaction of
18 business within the state, both by transacting business with Arsanis for more than 25 years and by
19 operating its own Spirit Halloween stores within the State.

20 **PARTIES**

21 6. Damara Arsanis is a citizen and resident of Stockton, California.

22 7. Dax Arsanis is a citizen and resident of Stockton, California.

23 8. D's Gone Batty, Inc. is a California corporation with its principal place of business
24 in Santa Cruz, California. Damara Arsanis and Dax Arsanis are the sole shareholders of D's Gone
25 Batty, Inc. D's Gone Batty, Inc. has, since 1997, operated Spirit Halloween stores in numerous
26 locations during each Halloween season.

27 9. Spirit Halloween Superstores, LLC is a Delaware limited liability company, with its
28 principal place of business in Egg Harbor Township, New Jersey. Spirit is wholly owned by Spencer

1 Spirit IH LLC, a Delaware limited liability company, which is in turn wholly owned by Spencer
2 Spirit Holdings, Inc, a Delaware Corporation with its principal place of business in Egg Harbor
3 Township, New Jersey.

4 **FACTS**

5 10. Dax and Damara Arsanis were first introduced to Spirit when their father opened the
6 15th Spirit Halloween store in the United States in Stockton, CA in 1990. Dax began working for
7 his father's store at age 14.

8 11. In 1997, Dax and Damara decided to follow in their father's footsteps and opened
9 their first Spirit location in Vallejo, CA. When Arsanis entered into their business relationship with
10 Spirit, they signed an agreement styled as a "consignment agreement." In order to become a
11 consignment operator, Arsanis had to pay a security deposit to Spirit for the right to operate in their
12 territories.

13 12. Pursuant to the consignment agreements with Spirit, Arsanis operated retail stores
14 each year under the "Spirit Halloween" marks during the Halloween season. Under the Spirit model,
15 the businesses did not necessarily operate from the same location every season—because these were
16 not year-round businesses, and instead operated under a pop-up model. Each year Arsanis would
17 identify, build out (if necessary), and outfit locations for each territory only for the Halloween
18 season.

19 13. In recent years, Arsanis continuously operated in three territories, Tracy California
20 (2000-2022), Manteca California (2009-2022), and Yuba City California (2012-2022).

21 14. Spirit had significant say over all aspects of Arsanis's business—from location
22 selection and approval, to advertising and marketing, to merchandise sold, to the layout of the
23 stores—Arsanis was required to comply at all times with Spirit's system and specifications.

24 15. Spirit provided each year's merchandise to Arsanis on a consignment basis, with
25 unsold merchandise being returned to Spirit at the end of each season. At the end of each season,
26 an inventory of unsold merchandise was conducted by Arsanis and an independent inventory
27 service selected by Spirit.

28 16. During the course of their relationship, Arsanis also paid mark ups and "service fees"

1 to Spirit on required expenditures such as freight, signage, fixtures, rent, and in-store experiences.

2 17. Throughout their relationship, Arsanis expended significant time and money to build
3 recognition and goodwill associated with the Spirit Halloween brand. As a result of these efforts,
4 Arsanis's stores performed very well—in 2021, one of Arsanis's stores surpassed \$1 million in
5 sales. For hitting this milestone, Spirit awarded Dax and Damara Arsanis each with orange
6 blazers—these were used as symbols for successful operators, and Spirit made a show of praising
7 those operators receiving orange blazers at its annual conference each year. Arsanis also received
8 several awards throughout the years from Spirit including “Highest Increase in Sales” in multiple
9 years, “Highest Increase in Transaction Count” in multiple years, and “Spirit of Children” awards
10 for their donation amounts per store to their local children's hospitals.

11 18. Prior to the 2022 season, Spirit encouraged Arsanis to purchase snap wall fixtures,
12 which they did for \$37,500 for the 2022 season.

13 19. After the 2022 season completed, Arsanis began usual preparations for the 2023
14 season. To store all their fixtures between the 2022 and 2023 seasons, Arsanis entered into three
15 storage facility contracts.

16 20. On January 12, 2023, less than 30 days before the end of their consignment
17 agreement year, Spirit sent a termination letter to Arsanis stating simply that “Spirit has elected not
18 to offer you a Consignment Contract for Spirit store locations for the 2023 Spirit season.” Spirit did
19 not claim to have any cause for terminating the agreement with Arsanis and did not provide them
20 with an opportunity to sell the business.

21 21. Anne Sullivan, Senior Director of Operations at Spirit, also called Arsanis to inform
22 them of the termination. During this call, Ms. Sullivan said that the decision to terminate had
23 nothing to do with performance, was nothing personal, and had only to do with numbers and
24 logistics.

25 22. As a result of their termination, Arsanis only ended up using the expensive snap wall
26 fixtures for one season and Spirit refused to buy them back.

27 23. For the 2023 Halloween season, Spirit opened its own stores in several of Arsanis's
28 former locations including Tracy, California and Manteca, California. Additionally, Spirit awarded

1 the Yuba City, California territory to another consignment operator.

2 24. After consulting with counsel, Arsanis learned that their consignment relationship
3 with Spirit constituted a franchise relationship under the California Franchise Relations Act.

4 25. As a result of the Defendants' termination, Arsanis has lost the value of their
5 business, an amount in excess of \$3.2 million.

6 **CLAIM ONE**

7 **(Violation of the California Franchise Relations Act (Termination))**

8 26. Arsanis repeats and realleges all of the allegations set forth in the preceding
9 paragraphs as though fully set forth herein.

10 27. The arrangement between Arsanis and Spirit was a "franchise" as that term is
11 defined in the California Franchise Relations Act ("CFRA"), CAL. BUS. & PROF. CODE § 20001.

12 28. The CFRA defines "Franchise" as: "a contract or agreement, either expressed or
13 implied, whether oral or written, between two or more persons by which: (a) A franchisee is granted
14 the right to engage in the business of offering, selling or distributing goods or services under a
15 marketing plan or system prescribed in substantial part by a franchisor; and (b) The operation of
16 the franchisee's business pursuant to that plan or system is substantially associated with the
17 franchisor's trademark, service mark, trade name, logotype, advertising, or other commercial
18 symbol designating the franchisor or its affiliate; and (c) The franchisee is required to pay, directly
19 or indirectly, a franchise fee." Cal. Bus. & Prof. Code § 20001.

20 29. Arsanis's relationship with Spirit satisfies the definition of a franchise because
21 Arsanis: a) operated their businesses pursuant to the requirements of Spirit, who prescribed details
22 such as location, advertising and marketing, specific merchandise sold, and store layout therefore
23 satisfying the requirement that the franchisee operate pursuant to the franchisor's marketing plan
24 or system; b) was granted a license, pursuant to their consignment agreement, to operate under the
25 "Spirit Halloween" marks satisfying the trademark license requirement; and c) paid a deposit, mark
26 ups, and "service fees" to Spirit on required expenditures such as freight, signage, fixtures, rent,
27 and in-store experiences that qualify as franchise fees for the purposes of the CFRA.

28 30. Arsanis is a California resident and their Spirit locations were in California. As such,

the California Franchise Relations Act applies to their relationship with Spirit. The CFRA prohibits termination or nonrenewal absent good cause.

31. In violation of the CFRA, Spirit terminated Arsanis's franchise without cause. In fact, Spirit was forthright that the termination of Arsanis's agreement was not for cause but merely for Spirit's own convenience and profitability.

32. As a result of Spirit's violation of the CFRA, Arsanis is entitled to recover the fair market value of the franchised business and franchise assets and any other damages caused by Spirit's termination.

CLAIM TWO

(Violation of the California Franchise Relations Act (Non-renewal))

33. Arsanis repeats and realleges all of the allegations set forth in the preceding paragraphs as though fully set forth herein.

34. As outlined more fully above, the arrangement between Arsanis and Spirit was a "franchise" as that term is defined in the California Franchise Relations Act ("CFRA"), CAL. BUS. & PROF. CODE § 20001.

35. Arsanis are a California residents and their Spirit locations were in California. As such, the California Franchise Relations Act applies to their relationship with Spirit.

36. To the extent that the termination of Arsanis's franchise can be considered a non-renewal, Spirit violated the CFRA by failing to renew Arsanis's franchise without first providing at least 180 days prior written notice of its intention not to renew and giving Arsanis the opportunity during that time to sell their business to a purchaser.

37. As a result of Spirit's violation of the CFRA, Arsanis is entitled to recover the fair market value of the franchised business and franchise assets and any other damages caused by Spirit's unlawful non-renewal.

CLAIM THREE

(Unfair, Unlawful, and Fraudulent Business Practices

Violations of Cal. Bus. & Prof. Code §17200, *et seq.*)

38. Arsanis repeats and realleges all of the allegations set forth above as though fully set

1 forth herein.

2 39. Spirit's acts are a continuing and ongoing unfair, unlawful, and/or fraudulent activity
3 prohibited by the Unfair Competition Law ("UCL") and justify injunctive relief, restitution, and
4 other equitable relief pursuant to Cal. Bus. & Prof. Code § 17203.

5 40. The UCL provides: "Unfair competition shall mean and include unlawful, unfair, or
6 fraudulent business practices and unfair, deceptive, untrue or misleading advertising..."

7 41. Spirit exploited its position of power over Arsanis to commit the acts and
8 misconduct alleged above, which are unfair, unlawful, and/or fraudulent business acts and practices
9 within the meaning of California Business and Professions Code §§ 17200 *et seq.*, including
10 violations of CFRA (Cal. Bus. & Prof. Code § 20001 *et seq.*).

11 42. As a result, Arsanis suffered damages and continues to incur costs and fees
12 associated with Spirit's unfair, unlawful, and/or fraudulent business practices.

13 43. Spirit's course of conduct, act(s), and practice(s) constitute separate and independent
14 unfair, unlawful, and/or fraudulent business practices and violations of Cal. Bus. and Prof. Code §
15 17200 *et seq.*

16 44. Pursuant to Cal. Bus. and Prof. Code § 17200, *et seq.*, Spirit and all persons in
17 concert with Spirit should be enjoined and restrained, temporarily, preliminarily and permanently,
18 prohibitorily and mandatorily from engaging in all forms of unfair, unlawful, and/or fraudulent
19 business acts and practices, including violations of CFRA.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiffs respectfully pray this Court

22 1. Grant the Plaintiffs' damages in an amount to be determined at trial but in no event
23 less than \$3,200,000 plus interest, costs, and attorneys' fees.

24 2. Enjoin and restrain Defendant Spirit Halloween Superstores, LLC, preliminarily and
25 permanently, prohibitorily and mandatorily from engaging in all forms of unfair, unlawful, and/or
26 fraudulent business acts and practices, including violations of CFRA.

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DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury as to all issues.

Dated: January 22, 2025

GARNER, GINSBURG & JOHNSEN, P.A.

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&

LEWITT, HACKMAN, SHAPIRO,
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By: /s/ Jessica W. Rosen

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